

REMARKS

Applicant respectfully traverses the Examiner's rejection of claim 6 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant has amended claim 6, as request by the Examiner, replacing "a capsule body" with "the capsule body." Applicant requests that the Examiner now withdraw the rejection to claim 6 as currently amended.

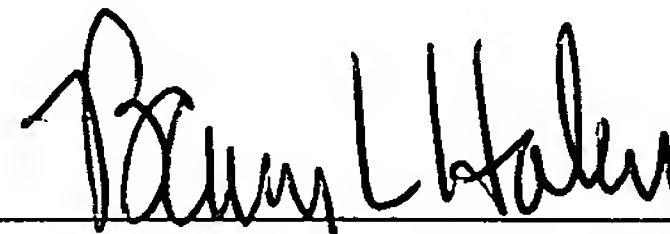
Applicant also respectfully traverses the Examiner's rejection of claims 1 through 10 under the doctrine of obviousness-type double patenting as being unpatentable over claims 1 through 5 of U.S. Patent No. 6,886,686 to Anderson in view of U.S. Patent No. 6,092,648 to Sellers. Applicant has included new claims 11 through 16 to overcome the Examiner's rejection of claims 1 through 10 as being unpatentable under Anderson in view of Sellers. The new independent claim 11 claims a capsule having cylindrical first member mounted within a second member wherein the first member includes a plunger tube. When the second member is depressed, said second member engages the plunger tube, which, in turn, ruptures a joined area of weakened material around the periphery of the side cylindrical wall and sealed bottom of the first member. The rupture of the sealed bottom by the plunger releases the contents of the capsule into the claimed container. The Sellers reference does not disclose a capsule having these structures and does not operate by the same means as the present invention. The Examiner relies upon the combination of the Anderson reference in view of the Sellers reference to make this objection under 35 U.S.C. 103(a). To overcome this rejection, Applicant is filing a Terminal Disclaimer of the prior patent No. 6,886,686. Enclosed herewith, please

Applicant: Anderson, Michael R.
Serial No.: 10/709,556
Page 7

find the Terminal Disclaimer to Obviate a Double Patenting Rejection concurrently filed with this Amendment to overcome the Examiner's rejection under 35 U.S.C. 103(a).

If there are any additional charges, including extension of time, please bill our Deposit Account No. 13-1130.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Barry L. Haley", is written over a horizontal line.

Barry L. Haley, Reg. No. 25,339
Malin, Haley & DiMaggio, P.A.
1936 South Andrews Ave.
Ft. Lauderdale, Florida 33316
Tel: (954) 763-3303